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IN THE HIGH COURT OF JUDICATURE CHHATTISGARH
AT BILASPUR Division Bench

Tax Case Income Tax Appeal No. 31 /2006

Appellant : Deputy Commissioner of Income tax
Circle 2 (1) Raipur.

P.R. No.
Presented by Shri
dated

Respondent : M/s.Bhimsaria Doors Pvt. Ltd.
580 Industrial Estate, Urla Raipur.

Tax Case Income Tax appeal u/s 260 A of Income Tax Act 1961.

HIGH COURT OF JUDICATURE CHHATTISGARH; BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI V.K. SHRIVASTAVA, J.

Tax Case Income Tax Appeal No.31 of 2006.

Appellant — Deputy Commissioner of Income Tax Circle 2 (1) Raipur.

VERSUS

RESPONDENT — M/s. Bhimsaria Doors Pvt. Ltd. 580 Industrial Estate, Urla Raipur.

Present: Shri Amit Chaudhari and Ms. Yoshita M., learned counsel for the appellant.

ORAL ORDER
(Passed on 27th November, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

This case arises out of the order of the Income Tax Appellate Tribunal, Nagpur Bench, Nagpur dated 23-06-2006 in the appeal filed by the assessee and the cross-appeal filed by the revenue. In the appeal, the assessee has challenged the addition made by the Assessing Officer to the book results, whereas in the appeal of the revenue, the revenue challenged the reduction granted by CIT (A) in respect of application of net profit from 12% adopted by the Assessing Officer to 4% of the receipts. By the impugned order, the Tribunal has dismissed the appeal as well as the cross-appeal.

(2) Having heard learned counsel for the appellant, we do not find any question of law, much less substantial question of law that arises for decision-making. What the learned Standing Counsel for the Income Tax Department would assail before us is the correctness of the finding

of fact recorded by the Tribunal. The Tribunal in para 7 of the order recorded its finding thus:

> "7. We have considered the rival submissions. The evidence and documents placed in the paper book are examined. The various submissions as made by assessee as well as revenue are considered. It is seen that the books of account of the assessee are audited and quantitative details are available in the books of accounts. The quantitative details have also been submitted in the tax audit report as well as audited balance sheet of the assessee company. The books of accounts of the assessee were produced before the A.O. and have also been examined in the c9ourse of assessment proceedings. The overall quantitative details of the year are available on record. The monthwise electricity bills were produced before the A.O. The monthwise electricity bills were produced before the O.A. The units consumed in the month are indicated in the electricity bills produced by assessee before the A.O. The quantitative details as regard to purchases and sales are also reflected in the books of accounts produced before the A.O. The A.O. has not found any mistake or defect but has rejected the book results as according to him details were not filed by assessee. We are of the opinion that if assessee has maintained books of accounts which also contains quantitative details and same have been produced before the A.O. there is no case for revenue to reject the books of accounts of assessee. A.O. cannot reject the book results for mere non filing of details, if the details were available in the books produced before him. It is also seen on the record that assessee has shown during the year net profit of 0.25% which is better as compared to earlier year accepted by revenue u/s 143 (3) proceedings. The

gross profit and various expenses as shown by assessee are also comparable to what revenue has accepted in the case of assessee in the immediately earlier year. We are also of the opinion that the reasoning of the CIT (A) as to the stock turnover ratio is no reason to reject the books results of assessee. We are of the opinion that the net profit as shown by the assessee is fully verifiable with reference to legal and cogent evidence produced before the A.O. and it does not call for any addition to be made at the hands of assessee. The gross profit and net profit as shown is fair and reasonable considering the evidence on record of assessee. Considering the totality the facts and circumstances of the case we are of the opinion that rejection of the books of accounts by the A.O. was unjustified We are of the opinion that A.O. ought to have accepted the net income from business as shown in the return of income. We therefore hold that the income as shown in the return at Rs. 13,922/- be accepted and entire addition as made by the A.O. is deleted. The appeal on the ground No.2,3 & 5 of assessee is allowed and that of revenue is dismissed."

(3) The finding recorded by the Tribunal is based on perusal of the records of the case and the evidence laid before the Assessing Officer. The finding does not suffer from any perversity, and it cannot be condemned for want of legal evidence. The appeal is devoid of merit and it is accordingly dismissed. No costs.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Chief Justice

Subby